

### **REMARKS**

Applicants respectfully request reconsideration and allowance in view of the foregoing amendment and the following remarks. Applicants amend claims 1, 3-7, 24, 27 and 35 without prejudice or disclaimer.

#### **Rejection of Claims 1-8 and 24--34 Under 35 U.S.C. §101**

The Office Action rejects claims 1-8 and 24-34 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Applicants amend claims 1 and 24 to recite methods that cause a computing device to perform certain steps. Applicants submit that these amendments tie the claims to a particular machine (i.e. a computing device) such that the claim is now directed to patentable subject matter. Applicants also amend claim 27 to recite a computer-readable medium storing instructions which, when executed by a computing device, cause the computing device to transmit information. Applicants submit that this amendment defines an arrangement which “permits the computer program’s functionality to be realized.” Accordingly, Applicants respectfully request that this rejection be withdrawn.

#### **Rejection of Claims 1-7, 24-33 and 35-41 Under 35 U.S.C. §103(a)**

The Office Action rejects claims 1-7, 24-33 and 35-41 under 35 U.S.C. §103(a) as being unpatentable over Li (U.S. Patent No. 6,275,531) (“Li”) in view of Chiu et al. (U.S. Patent No. 6,233,283) (“Chiu et al.”) and Masaki et al. (U.S. Patent No. 6,356,309) (“Masaki et al.”). Applicants amend claim 1 to recite encoding a gradually increasing amount of additional low priority frames as high priority frames until less than the threshold amount of low priority frames are being lost if more than a threshold amount of low priority frames are being lost, wherein the additional high priority frames are low priority frames having a high priority level added after

encoding. The specification provides support for this amendment at page 8, lines 14-20, which provide a non-limiting example that “the priority level may be added to a video-coded frame after the frame is encoded.” Applicants submit that the combination of Li, Chiu et al., and Masaki et al. fail to teach or adequately suggest this limitation.

Inasmuch as the Office Action states that neither Li nor Chiu et al. teach that additional high priority frames are encoded at a lower quality than is generally used for high priority frames, Applicants shall focus on explaining how Masaki et al. fail to teach or suggest the newly amended limitation of encoding a gradually increasing amount of additional low priority frames as high priority frames until less than the threshold amount of low priority frames are being lost if more than a threshold amount of low priority frames are being lost, wherein the additional high priority frames are low priority frames having a high priority level added after encoding.

First of all, Masaki et al. teach dividing a frame into priority and non-priority areas. Masaki et al., col. 68, lines 24-39. Masaki et al. teach an approach for adjusting the range of the non-priority area. Masaki et al., col. 68, lines 55-59. In other words, the approach of Masaki et al. is to alter the ratio of priority and non-priority areas of a frame to ensure that particular priority portions of the frame are received. This is a distinctly different approach from what is recited in claim 1.

Claim 1 recites that entire frames (not priority areas of a frame) which are low priority frames have a high priority level added after encoding. The difference is that Masaki et al. prioritize on an area by area basis within a frame, and claim 1 adds a high priority level to entire low priority frames after encoding. This difference is further underscored by the Masaki et al.’s extensive discussion of how to manage, resize, detect, drop, and transmit priority versus non-priority areas within individual frames. Masaki et al., col. 68, line 24 – col. 69, line 9.

For at least these reasons, Applicants submit that the proposed combination of references fails to teach or adequately suggest all the limitations of claim 1. Applicants similarly amend claims 24, 27, and 35 and likewise submit that they are patentable over the combination of references. Applicants further submit that their respective dependent claims are also patentable inasmuch as they depend from patentable base claims and recite additional limitations therefrom. Accordingly, Applicants respectfully request that this rejection be withdrawn.

**Rejection of Claims 8, 34 and 42 Under 35 U.S.C. §103(a)**

The Office Action rejects claims 8, 34 and 42 under 35 U.S.C. §103(a) as being unpatentable over Li in view of Chiu et al. and Masaki et al., and further in view of Zhang et al. (U.S. Patent No. 6,816,194) (“Zhang et al.”). Applicants submit that claims 8, 34, and 42 are patentable over these references inasmuch as they depend from base claims which are patentable as set forth above and recite additional limitations therefrom. Accordingly, Applicants respectfully request that this rejection be withdrawn.

**CONCLUSION**

Having addressed all rejections and objections, Applicants respectfully submit that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited. If necessary, the Commissioner for Patents is authorized to charge or credit the **Novak, Druce & Quigg, LLP, Account No. 14-1437** for any deficiency or overpayment.

Respectfully submitted,

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By: \_\_\_\_\_

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